

REMARKS

The Official Action of May 19, 2003, has been carefully reviewed. Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

The claims under consideration are Claims 1-7, 9 and 10.

1. Restriction Requirement

Under PCT Rule 13.1 and 37 CFR 1.499, the Examiner required restriction among: the variations of Y, R³, Z, etc. in that they encompass different heterocycles.

In response to this requirement, the Applicants hereby elect the Group wherein: Z represents aryl (e.g. phenyl) or where R³ is a phenyl, furan or isoxazole ring.

The claims reading on this group are Claims 1-4, 6, 7, 9 and 10.

The Examiner further required election of a single disclosed species.

In response to this requirement, Applicants hereby provisionally elect the compound that is presented as the title compound of Example 8, for purposes of search with traverse. This compound is named as:

3'-[6-(Furan-3-yl)imidazo[4,5-b]pyridin-3-yl]biphenyl-2-carbonitrile

Applicants respectfully request reconsideration and withdrawal of the foregoing requirement for restriction under 37 C.F.R. §1.143.

As stated in MPEP §803 there are two criteria for a proper requirement for restriction between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is not required.

As the Examiner noted, the designated Groups are patentably distinct as claimed. Applicants respectfully assert, however, that there will not be a serious burden on the Examiner if restriction is not required.

The common structural core which is found among the compounds which are prepared and employed in accordance with the present invention provides unity of invention and a common link among the above-noted groups, thus facilitating examination.

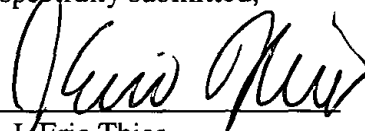
Because no serious burden for examination is present if restriction is not required, Applicants respectfully request withdrawal of the requirement for restriction.

This election is being taken without prejudice to the filing of a divisional application directed to the non-elected subject matter. In accordance with the third sentence of 35 U.S.C. § 121, a patent issuing from the instant application should not be a reference against a divisional application filed before the issuance of such patent.

Any additional fees required in connection with this submission may be taken from Merck Deposit Account No. 13-2755.

Respectfully submitted,

By



J. Eric Thies
Reg. No. 35,382
Attorney for Applicant

MERCK & CO., Inc.
P.O. Box 2000
Rahway, New Jersey 07065-0907
(732) 594-3904

Date: June 19, 2003